

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID B. CORNEAL and  
SANDRA Y. CORNEAL,

Plaintiffs

v.

JACKSON TOWNSHIP, *et al.*,

Defendants

: NO. 1:CV-00-1192

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JURY TRIAL DEMAND **FILED**  
HARRISBURG, PA

RAMBO, J.

APR 14 2003

MARY E. D'ANDREA, CLERK  
Per \_\_\_\_\_

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**PLAINTIFFS' MOTION *NUNC PRO TUNC* FOR ENLARGEMENT OF  
TIME TO FILE A BRIEF IN RESPONSE TO DEFENDANTS' MOTION  
FOR LEAVE TO FILE ANSWER**

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AND NOW, Plaintiffs David B. Corneal and Sandra Y. Corneal (the "Corneals"), by and through their counsel, Eckert Seamans Cherin & Mellott, LLC, submit this Motion *Nunc Pro Tunc* for Enlargement of Time to file a Brief in Response to Defendants' Motion for Leave to File Answer and in support thereof state:

1. On or about November 6, 2001, the Corneals, with leave of Court, filed an Amended Complaint in the above-captioned matter.
2. Defendants never filed an answer to Plaintiffs' Amended Complaint.
3. On February 20, 2003, Defendants filed a Motion for Leave to File an Answer to the Amended Complaint *Nunc Pro Tunc*.
4. Defendants never filed a brief in support of their Motion dated February 20, 2003.

5. Pursuant to Local Rule of Civil Procedure 7.5, therefore, the Court issued its Order dated March 14, 2003, deeming Defendants' Motion withdrawn.

6. Subsequently, on or about March 18, 2003, the Defendants submitted a new "Motion for Leave to File Answer to Plaintiffs' Amended Complaint Out of Time *Nunc Pro Tunc* [sic]", and filed a brief in support thereof on the same day.

7. The Certificate of Service attached to Defendants' Brief indicates that it was serves by mail.

8. Also on March 18, 2003, the Court issued an Order directing the Defendants to file a renewed Motion for Summary Judgment regarding Plaintiffs' Substantive Due Process Claim and State Law Claims, reserving ruling with regard to certain motions pending before the Court, and deeming moot certain other motions pending before the Court.

9. As a result of an administrative oversight, Plaintiffs failed to recognize that the Defendants Motion for Leave to File Answer was neither stayed nor deemed moot.

10. Consequently, Plaintiffs, through inadvertence, failed timely to file either a response to Defendants' Motion for Leave to Answer pursuant to Local Rule 7.6 or a Motion for Enlargement of Time to Respond to Defendants' Motion for Leave to Answer.



11. Plaintiffs' rights will be prejudiced if they are not permitted to respond to the Defendants' Motion for Leave to Answer.

12. Defendants will not be prejudiced by granting to Plaintiffs an enlargement of time to respond to the Motion for Leave to Answer.

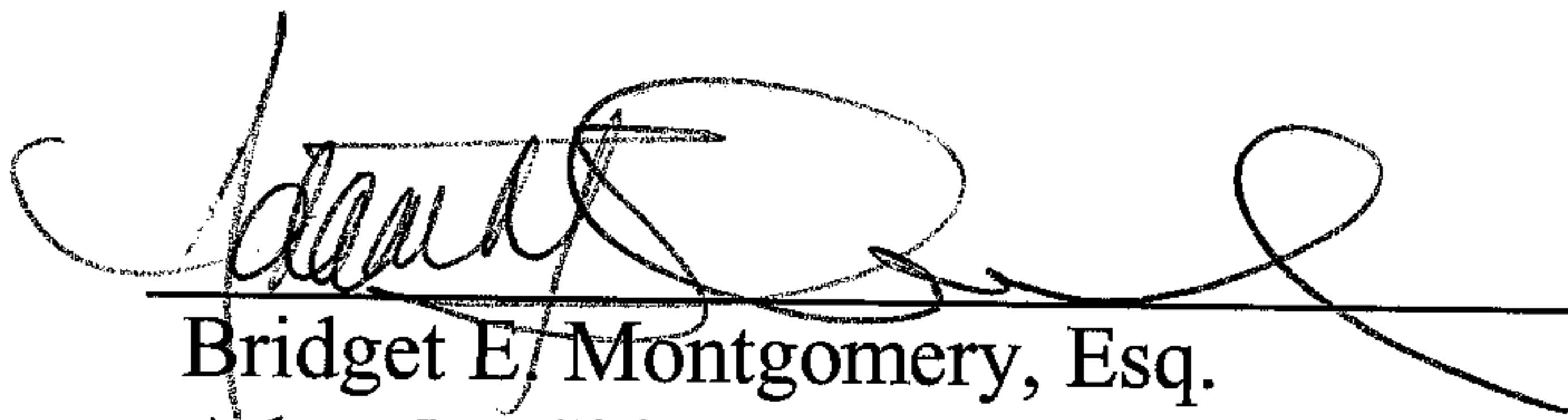
13. Plaintiffs sought the concurrence of Defendants in this Motion, but Defendants refused to concur in the Motion.

14. Pursuant to Local Rule of Civil Procedure 7.5, Plaintiffs are not required to file a brief in support of this Motion.

WHEREFORE, Plaintiffs respectfully request that this Court enter its Order granting an enlargement of time to file a Brief in Response to Defendants' Motion for Leave to File Answer.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC



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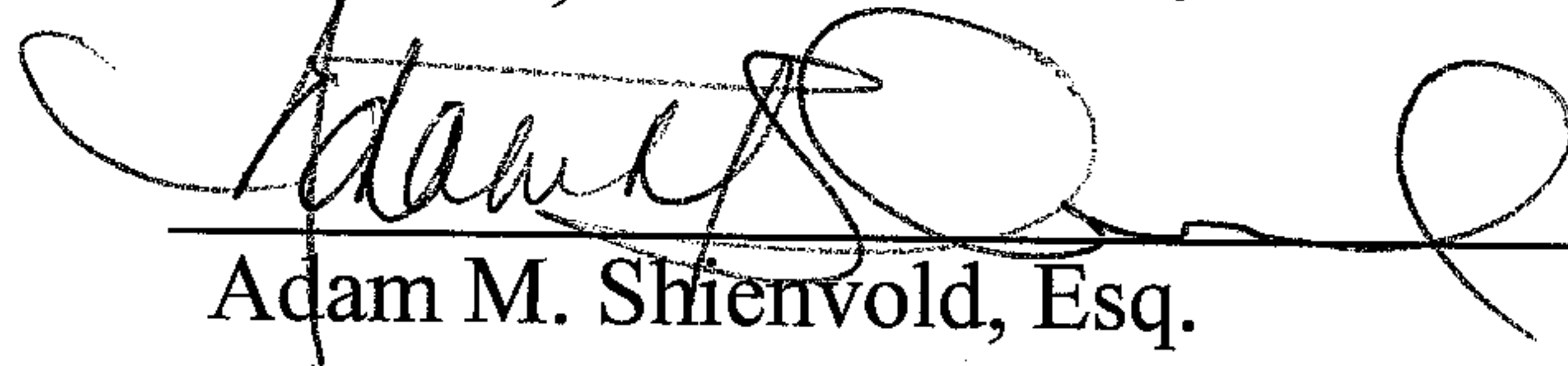
Date: 4/14/03

Attorneys for Plaintiffs, David B. and Sandra Y.  
Corneal

## **CERTIFICATE OF SERVICE**

I certify that I delivered a copy of the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of the Federal Rules of Civil Procedure.

First Class U.S. Mail  
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Date: 4/14/03

Counsel for Plaintiffs, David B. and Sandra Y.  
Corneal